IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2507 OF 2004

IN

FIRST APPEAL NO.1056 OF 2002

Zahirullah s/o Shukrulla Ansari ..Applicant

Versus

1.Moinuddin s/o Shukrulla and Ors. ..Respondents

CORAM : P.V.KAKADE, J.

DATE : 8TH OCTOBER, 2004.

P.C.:

1. Heard both sides. Perused the record including the order passed in Appeal, which is admitted and pending.

2. It appears that the learned trial judge while decreeing the suit passed order to the effect that the suit was dismissed and interim order was vacated. The Court Receiver was appointed in respect of the suit

premises, who was directed to stands discharged on passing accounts and it was further directed that he shall hand over possession of the suit premises to the person from whom it was taken.

3. Now the present applicant is said to be in possession of the suit property as an agent of the Court Receiver. The learned counsel for the applicant submits that the applicant has prepared to pay the royalty amount if the Court Receiver is continued pending the appeal and he may be given some time to pay the arrears of rent. In view of this aspect the Court Receiver who was appointed pending the suit is directed to continue pending the Appeal and to that extent the order discharging him passed by the Lower Court stands in abeyance. The Court Receiver shall continue in remaining possession of the suit premises and present appellant shall continue to remain as an agent of the Court Receiver on the same amount of royalty which was being paid by the applicant during pendency of the suit.

4. The applicant shall continue to pay monthly royalty amount to the Receiver and shall pay the arrears amount within six months from the date of this order to the

Court Receiver. The Court Receiver shall make report to this court on completion of payment of arrears by the applicant. With this direction the application stands disposed of. This arrangement is made pending the appeal without rights and contentions of both the parties.

. In the circumstances the appeal stands expedited.

Certified copy expedited.